MONTANA UNEMPLOYMENT COMPENSATION LAW

Chapter 137, Session Laws of 1937
As amended by Chapter 137 and Chapter 167,
Session Laws of 1939; and by
Chapter 164, Session Laws of 1941.

AND

RULES AND REGULATIONS

Adopted in Conformity Therewith.

Issued by
Unemployment Compensation Commission
of Montana

MARCH 17, 1941

NAEGELE PRINTING CO., HELENA, MONT

BARCLAY CRAIGHEAD
Chairman

GEORGE R. SHEPARD
Commissioner

LOUIS G. DeNAYER
Commissioner

THE UNEMPLOYMENT COMPENSATION COMMISSION OF MONTANA

Helena, Montana
March 17, 1941

Pursuant to Section 11 of the Montana Unemployment Compensation Law, the Commission has caused to be printed herewith the text of the law as amended to this date and the Rules and Regulations which the Commission has adopted as provided for under the provisions of the above law. All regulations heretofore issued are hereby amended and by the regulations this day adopted are put into effect.

Amendments to the law made by the 1941 Legislative Assembly are enclosed in brackets.

The unemployment compensation and employment service programs of all the states are operated in co-operation with the Federal Government through the Social Security Board of the Federal Security Agency. The major part of the cost of administration of these services within the several states is paid from federal funds. In order to co-operate with the Federal Government and to share in these federal grants, State Unemployment Compensation and Employment Service laws must conform to requirements of Federal Law and state administrative procedures must conform to the regulations of the respective federal agencies.

For information concerning federal laws under which the duties of the Unemployment Compensation Commission of Montana are administered refer to Social Security Act, as amended, Title III; Wagner-Peyser Act (48 Stat. 113) as amended; and the President's Reorganization Plan No. 1.

UNEMPLOYMENT COMPENSATION COMMISSION
OF MONTANA,

By BARCLAY CRAIGHEAD,
Chairman and Executive Director,
GEORGE R. SHEPARD, Commissioner,
L. G. DeNAYER, Commissioner.

(SEAL)

[For convenience of the reader, Amendments of 1941 are enclosed in brackets, but brackets are not a part of the law.]

CHAPTER 137

An Act Providing for Unemployment Compensation; Creating a State Unemployment Compensation Commission; Establishing an Unemployment Compensation Fund and Providing for the Administration, Distribution and Investment Thereof; Providing for the Assessment and Collection of Contributions Upon Payrolls of Employers; Creating a State Employment Service and Providing an Appropriation Therefor; Providing Penalties for Violations. (As amended).

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. This Act shall be known and may be cited as the "Unemployment Compensation Law."

DECLARATION OF STATE PUBLIC POLICY

Section 2. As a guide to the interpretation and application of this Act, the public policy of this State is declared to be as follows: Economic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people of this State. Involuntary unemployment is therefore a subject of general interest and concern which requires appropriate action by the legislature to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and his family. The achievement of social security requires protection against this greatest hazard of our economic life. This can be provided by encouraging employers to provide more stable employment and by the systematic accumulation of funds during periods of employment to provide benefits during periods of unemployment, thus maintaining purchasing power and limiting the serious social consequences of poor relief assistance. The legislature, therefore, declares that in its considered judgment the public good, and the general welfare of the citizens of this State require the enactment of this measure under the police powers of the State for the compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own.

BENEFITS

Section 3. (a) Payment of Benefits. Thirty (30) months after the date when contributions first accrue under this act from the employer, benefits shall become payable from the fund to any individual, who thereafter is or becomes unemployed and

eligible for benefits as is herein prescribed; provided, however, that wages earned for services performed as an employee representative as defined in the Railroad Unemployment Insurance Act (52 Stat. 1094), or for services performed for an employer, as defined in said act, shall not be included for the purposes of determining eligibility or weekly benefit amount under this act with respect to any benefit year commencing on or after July 1, 1939, nor shall any benefits with respect to unemployment occurring on and after July 1, 1939, be payable on the basis of such wages under any provisions of this act. All benefits shall be paid through public employment offices in the State of Montana, or other agencies designated by the Comission, in accordance with such rules and regulations as the Commission may prescribe.

(b) Weekly Benefit Amount for Total Unemployment. Each eligible individual, who is totally unemployed (as defined in this act) in any week, shall be paid with respect to such week, benefits at the rate of four per cent (4%) of his total wages in employment for employers in the quarter of his base period wherein his earnings were highest, if a multiple of a dollar, or computed to the next highest multiple of a dollar, but not more than fifteen dollars ($15.00) per week, nor less than five dollars ($5.00) per week.

(c) Wage Record. The Commission shall maintain a record of the wages **[paid to]** an individual in accordance with wages earned by him for employment by employers during each quarter.

(d) Duration of Benefits. The maximum total amount of benefits payable to any eligible individual during any benefit year shall not exceed sixteen (16) times his weekly benefit amount.

BENEFIT ELIGIBILITY CONDITIONS

Section 4. An unemployed individual shall be eligible to receive benefits with respect to any week only if the commission finds that—

(a) He has registered for work at and thereafter has continued to report at an employment office in accordance with such regulations as the Commission may prescribe, except that the Commission may, by regulation, prescribe that such types of cases or situations with respect to which it finds that compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this act, provide for registration and reporting for work by mail or through other governmental agencies.

(b) He has made a claim for benefits in accordance with the provisions of Section 6 (a) of this act.

(c) He is able to work and is available for work.

(d) Prior to any week for which he claims benefits he has been totally unemployed for a waiting period of two (2) weeks. No week shall be counted as a week of total unemployment for the purposes of this subsection:

(1) If benefits have been paid with respect thereto;

(2) Unless the individual was eligible for benefits with respect thereto in all respects except for the requirements of Subsections (b) and (e) of this Section;

(3) **[Unless it occurs within the benefit year of the claimant, provided, however, that where a claimant has had a period of employment over a period of thirteen (13) consecutive weeks and again becomes unemployed in such benefit year, then in that event such claimant shall be required to serve another waiting period of two (2) weeks; however, if claimant has served one waiting period and has received benefits and is again employed for a period of less than thirteen (13) consecutive weeks in duration and claimant again becomes unemployed, he may receive benefits without serving an additional waiting period, provided the employment accepted, which was less in duration than thirteen (13) consecutive weeks, was not with the same employer. In no instance shall a claimant be required to serve more than two (2) waiting period weeks in addition to the two (2) waiting period weeks served at the beginning of the benefit year.]**

(4) Unless it occurs after benefits first could become payable to any individual under this act.

(e) He has within the base period earned wages for employment by employers equal to thirty (30) times his weekly benefit amount.

DISQUALIFICATION FOR BENEFITS

Section 5. An individual shall be disqualified for benefits—

(a) If he has left work voluntarily without good cause, if so found by the Commission, for a period of not less than one (1) or more than **[five]** (5) weeks (in addition to and immediately following the waiting period), as determined by the Commission according to the circumstances in each case.

(b) If he has been discharged for misconduct connected with his work, if so found by the Commission, for a period of not less than the one (1) nor more than the nine (9) weeks (in addition to and immediately following the waiting period), as determined by the Commission in each case according to the seriousness of the misconduct.

(c) If the Commission finds that he has failed, without good cause, either to apply for available, suitable work when so directed by the employment office or the Commission or to

accept suitable work when offered him, or to return to his customary self-employment (if any) when so directed by the Commission. Such disqualification shall continue for the week in which such failure occurred and for not less than the one (1) nor more than the five (5) weeks which immediately follow such week (in addition to the waiting period) as determined by the Commission according to the circumstances in each case.

(1) In determining whether or not any work is suitable for an individual, the Commission shall consider the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and previous earnings, his length of unemployment and prospects for securing local work in his customary occupation, and the distance of the available work from his residence.

(2) Notwithstanding any other provisions of this act, no work shall be deemed suitable and benefits shall not be denied under this act to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(A) If position offered is vacant due directly to a strike, lockout, or other labor dispute;

(B) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

(C) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(d) For any week with respect to which the Commission finds that his total unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed, provided that this sub-section shall not apply if it is shown to the satisfaction of the Commission that—

(1) He is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

(2) He does not belong to a grade or class of workers of which immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute;

Provided, that if in any case separate branches of work which are commonly conducted as separate business in separate premises are conducted in separate departments of the

same premises, each such department shall, for the purposes of this sub-section, be deemed to be a separate factory, establishment, or other premises; provided, further, that if the Commission upon investigation, shall find that such labor dispute is caused by the failure or refusal of any employer to conform to the provisions of any law of the State of Montana or of the United States pertaining to collective bargaining, hours, wages or other conditions of work, such labor dispute shall not render the workers ineligible for benefits.

(e) For any week with respect to which he is receiving or has received payment in the form of—

(1) Wages in lieu of notice or separation or termination allowance;

(2) Compensation for temporary **[or total]** disability under the workmen's compensation law of **[this, or,]** any state or under a similar law of the United States.

(3) Old age benefit payments under Title II of the Social Security Act, as amended, **[or benefits under the Federal Old Age and Survivors' Insurance Act, or similar payments under any act of Congress or State law.]**

(4) [Benefits under the Railroad Unemployment Insurance Act or any State Unemployment Compensation Act or similar laws of any state or of the United States.]

(f) [During the school term or customary vacation periods within the school term, if claimant has left his most recent work for the purpose of attending an established educational institution, or if claimant is a student regularly attending an established educational institution.]

(g) [For any week wherein claimant leaves her most recent work to be married. Such disqualification shall continue until such time as subsequently to such week additional wage credits in employment for employers have been earned so as to be eligible for benefits under Section 4 of this act.]

CLAIMS FOR BENEFITS

Section 6. (a) Filing. Claims for benefits shall be made in accordance with such regulations as the Commission may prescribe. Each employer shall post and maintain printed statements of such regulations in places readily accessible to individuals in his service and shall make available to each such individual at the time he becomes unemployed, a printed statement of such regulations. Such printed statement shall be supplied by the Commission to each employer without cost to him.

(b) Initial Determination. A representative designated by the Commission, and hereinafter referred to as a deputy, shall promptly examine the claim and, on the basis of the facts found by him, shall either determine whether or not such claim is valid, and if valid, the week with respect to which

benefits shall commence, the weekly benefit amount payable and the maximum duration thereof, or shall refer such claim or any question involved therein to an appeal tribunal which shall make its decisions with respect thereto in accordance with the procedure prescribed in subsection (c) of this section, except that in any case in which the payment or denial of benefits will be determined by the provisions of Section 5 (d) of this act, the deputy shall promptly transmit his full finding of fact with respect to that subsection to the Commission, which, on the basis of the evidence submitted and such additional evidence as it may require, shall affirm, modify, or set aside such findings of fact and transmit to the deputy a decision upon the issues involved under that sub-section which shall be deemed the decision of the deputy. The deputy shall promptly notify the claimant and any other interested party of the decision and the reasons therefor. The deputy may for good cause reconsider his decision and shall promptly notify the claimant and such other interested parties of his amended decision and the reasons therefor. Unless the claimant or any such interested party, within five calendar days after the delivery of such notification or within seven calendar days after such notification was mailed to his last known address, files an appeal from such decision, such decision shall be final and benefits shall be paid or denied in accordance therewith. If an appeal is duly filed, benefits with respect to the period prior to the final decision of the Commission, shall be paid only after such decision. Provided, that if an appeal tribunal affirms a decision of a deputy, or the Commission affirms a decision of an appeal tribunal, allowing benefits, such benefits shall be paid regardless of any appeal which may thereafter be taken, but if such decision is finally reversed, no employer's account shall be charged with benefits so paid.

(c) Appeals. Unless such appeal is withdrawn, an appeal tribunal, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the deputy. The parties shall be duly notified of such tribunal's decision, together with its reasons therefor, which shall be deemed to be the final decision of the Commission, unless within ten days after the date of notification or mailing of such decision, further appeal is initiated pursuant to subsection (e) of this section.

(d) Appeal Tribunals. To hear and decide disputed claims, the Commission shall appoint such impartial appeal tribunals as are necessary for the proper administration of this act, consisting in each case of either a salaried examiner selected in accordance with section 11 (d) of this act, or a body consisting of three members, one of whom shall be a salaried examiner, who shall serve as chairman, one of whom shall be a representative of employers, and the other of whom shall be a representative of employees; each of the latter two members

shall serve at the pleasure of the Commission and be paid a fee of not more than $10.00 per day of active service on such tribunal plus necessary expense. No person shall participate on behalf of the Commission in any case in which he is an interested party. The Commission may designate alternates to serve in the absence or disqualification of any member of an appeal tribunal. The chairman shall act alone in the absence or disqualification of any other member and his alternates. In no case shall the hearings proceed unless the chairman of the appeal tribunal is present.

(e) Commission Review. The Commission may on its own motion affirm, modify, or set aside any decision of an appeal tribunal on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The Commission shall permit such further appeal by any of the parties interested in a decision of an appeal tribunal which is not unanimous and by the deputy whose decision has been overruled or modified by an appeal tribunal. The Commission may remove to itself or transfer to another appeal tribunal the proceedings on any claim pending before an appeal tribunal. Any proceeding so removed to the Commission shall be heard by a quorum thereof in accordance with the requirements in subsection (c) of this section. The Commission shall promptly notify the interested parties of its findings and decision.

(f) Procedure. The manner in which disputed claims shall be presented, the reports thereon required from the claimant and from employers, and the conduct of hearings and appeals shall be in accordance with regulations prescribed by the Commission for determining the rights of the parties, whether or not such regulations conform to common law or statutory rules of evidence and other technical rules or procedure. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed.

(g) Witness Fees. Witnesses subpoenaed pursuant to this section shall be allowed fees at a rate fixed by the Commission. Such fees shall be deemed a part of the expense of administering this act.

(h) Appeal to Courts. Any decision of the Commission in the absence of an appeal therefrom as herein provided shall become final ten days after the date of notification or mailing thereof, and judicial review thereof shall be permitted only after any party claiming to be aggrieved thereby has exhausted his remedies before the Commission as provided by this act. The Commission shall be deemed to be a party to

any judicial action involving any such decision, and may be represented in any such judicial action by any qualified attorney employed by the Commission and has been designated by it for that purpose, or at the Commission's request by the attorney general.

(i) Court Review. Within ten days after the decision of the Commission has become final, any party aggrieved thereby may secure judicial review thereof by commencing an action in the district court of the county in which said party resides against the Commission for the review of its decision, in which action any other party to the proceeding before the Commission shall be made a defendant. In such action, a petition which need not be verified, but which shall state the grounds upon which a review is sought, shall be served upon a member of the Commission or upon such person as the Commission may designate and such service shall be deemed completed service on all parties, but there shall be left with the party so served as many copies of the petition as there are defendants and the Commission shall forthwith mail one such copy to each such defendant. With its answer, the Commission shall certify and file with said court all documents and papers and a transcript of all testimony taken in the matter, together with its findings of fact and decision therein. The Commission may also in its discretion, certify to such court questions of law involved in any decision by it. In any judicial proceeding under this section, the findings of the Commission as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive, and the jurisdiction of said court shall be confined to questions of law. Such action, and the questions so certified, shall be heard in a summary manner and shall be given precedence over all other civil cases except cases arising under the Workmen's Compensation law of this state. An appeal may be taken from the decision of the said district court to the supreme court of Montana in the same manner, but not inconsistent with the provisions of this act, as is provided in civil cases. It shall not be necessary, in any judicial proceeding under this section, to enter exceptions to the rulings of the Commission and no bond shall be required for entering such appeal. Upon the final determination of such judicial proceeding, the Commission shall enter an order in accordance with such determination. A petition for judicial review shall not act as a supersedeas or stay unless the Commission shall so order.

CONTRIBUTIONS

Section 7. (a) Payment.

(1) On and after January 1, 1937, contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this act, with respect to wages **[(as defined in Section 19 (p)) paid]** for employment (as de-

fined in this act) occurring during such calendar year. Such contributions shall become due and be paid by each employer to the Commission for the fund in accordance with such regulations as the Commission may prescribe and shall not be deducted, in whole or in part, from the wages of individuals in his employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half (½) cent or more, in which case it shall be increased to one (1) cent.

(b) Rate of Contributions.

(1) Each employer shall pay contributions equal to the following percentages of wages **[(as defined in Section 19 (p) of this act) paid]** by him with respect to employment:

(a) One and eight-tenths (1.8) percentum with respect to employment during the calendar year 1937;

(b) Two and seven-tenths (2.7) percentum with respect to employment during the calendar years 1938, 1939, 1940, 1941 and for each calendar year thereafter.

(c) Study of Merit Rating.

The Commission shall investigate and study the operation of this act and the actual experience hereunder with a view to determining the advisability of establishing a rating system which would equitably rate the unemployment risk and fix the contribution to the fund of each employer or industry and would encourage the stabilization of employment. The Commission shall submit their report and recommendations to the Governor and the Legislature not later than **[January 1, 1943.]**

(d) Wages in Excess of Three Thousand Dollars.

[Commencing January 1, 1941, the provisions of this act requiring the payment of contributions by employers subject to this act shall apply only to wages paid up to and including three thousand ($3,000.00) dollars by an employer to an employee with respect to employment during any calendar year.]

PERIOD, ELECTION AND TERMINATION OF EMPLOYER'S COVERAGE.

Section 8. (a) Any employing unit which is or becomes an employer subject to this act within any calendar year, shall be subject to this act during the whole of such calendar year.

(b) Except as otherwise provided in subsection (c) of this section an employing unit shall cease to be an employer subject to this act only as of the first day of January, of any calendar year, only if it files with the Commission prior to the last day of February, of such year, a written application

for termination of coverage, and the Commission finds that there were no twenty (20) different days, each day being in a different week within the preceding calendar year within which such employing unit employed one (1) or more individuals in an employment subject to this act, **[or]** the total wages payable for employment by said employer in the preceding calendar year did not exceed five hundred ($500.00) dollars. For the purposes of this subsection, the two(2) or more employing units mentioned in paragraph (2) or (3) of Section 19 (i) shall be treated as a single employing unit.

(c) An employing unit not otherwise subject to this act, which files with the Commission its written election to become an employer subject hereto for not less than two (2) calendar years, shall, with the written approval of such election by the Commission become an employer subject hereto to the same extent as all other employers as of the date stated in such approval, and shall cease to be subject hereto as of January 1, of any calendar year, subsequent to such two (2) calendar years only if at least thirty (30) days prior to said first day of January it has filed with the Commission a written notice to that effect.

Any employing unit for which services that do not constitute employment as defined in this act, are performed may file with the Commission, a written election that all such services performed by individuals in its employ in one (1) or more distinct establishments or places of business shall be deemed to constitute employment for all purposes of this act for not less than two (2) calendar years. Upon the written approval of such election by the Commission, such services shall be deemed to constitute employment subject to this act from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January 1, of any calendar year subsequent to such two (2) calendar years only if at least thirty (30) days prior to such first day of January such employing unit has filed with the Commission a written notice to that effect.

UNEMPLOYMENT COMPENSATION FUND

Section 9. (a) Establishment and Control. There is hereby established as a special fund, separate and apart from all public moneys or funds of this state, an unemployment compensation fund, which shall be administered by the Commission exclusively for the purposes of this act. This fund shall consist of (1) all contributions collected under this act, together with any interest thereon collected pursuant to Section 14 of this act; (2) all fines and penalties collected pursuant to the provisions of this act; (3) interest earned upon any moneys in the fund; (4) any property or securities acquired through the use of moneys belonging to the fund; and

(5) all earnings of such property or securities. All moneys in the fund shall be mingled and undivided.

(b) Accounts and Deposit. The state treasurer shall be ex-officio the treasurer and custodian of the fund who shall administer such fund in accordance with the directions of the Commission and shall issue his warrants upon it in accordance with such regulations as the Commission shall prescribe. He shall maintain within the fund three separate accounts: (1) a clearing account, (2) an unemployment trust fund account, and (3) a benefit account. All moneys payable to the fund, upon receipt thereof by the Commission, shall be forwarded to the treasurer who shall immediately deposit them in the clearing account. Refunds payable pursuant to Section 14 of this act may be paid from the clearing account upon warrants issued by the treasurer under the direction of the Commission. After clearance thereof, all other moneys in the clear ing account shall be immediately deposited with the secretary of the treasury of the United States of America to the credit of the account of this state in the unemployment trust fund established and maintained pursuant to Section 904 of the Social Security Act, as amended, any provision of law in this state relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this state to the contrary notwithstanding. The benefit account shall consist of all moneys requisitioned from this state's account in the unemployment trust fund. Except as herein otherwise provided, moneys in the clearing and benefit accounts may be deposited by the treasurer under the direction of the Commission in any bank or public depository in which general funds of the state may be deposited but no public deposit insurance charge or premium shall be paid out of the fund. The treasurer shall give a separate bond conditioned upon the faithful performance of his duties as custodian of the fund in an amount fixed by the Commission and in a form prescribed by law or approved by the attorney general. Premiums for said bond shall be paid from the administration fund.

(c) Withdrawals. Moneys shall be requisitioned from this state's account in the unemployment trust fund solely for the payment of benefits and in accordance with regulations prescribed by the Commission. The Commission shall from time to time requisition from the unemployment trust fund such amounts, not exceeding the amounts standing to this state's account therein, as it deems necessary for the payment of benefits for a reasonable future period. Upon receipt thereof the treasurer shall deposit such moneys in the benefit account and shall issue his warrants for the payment of benefits solely from such benefit account. Expenditures of such moneys in the benefit account and refunds from the clearing account shall not be subject to any provision of law requiring specific appropriations or other formal release by state officers of money in

their custody. All warrants issued by the treasurer for the payment of benefits and refunds shall bear the signature of the treasurer and the counter signature of a member of the Commission or its duly authorized agent for that purpose. Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or, in the discretion of the Commission, shall be deposited with the secretary of the treasury of the United States of America, to the credit of this state's account in the unemployment trust fund, as provided in subsection (b) of this section.

(d) Disbursements of Funds if Federal Act Becomes Inoperative. If Title III or IX of the Federal Social Security Act is declared unconstitutional or in any way is inoperative, this act automatically becomes inoperative under the provisions of this act, and the funds which then remain in the unemployment trust fund shall immediately be paid to the state treasurer to be paid into the unemployment compensation fund and funds there held shall be immediately distributed, upon order of the Commission, to the employers who have contributed thereto on a proportionate basis. If any part thereof remains undistributed for a period of one (1) year it shall be paid to the general fund of the State of Montana.

TRANSFER OF FUNDS TO RAILROAD UNEMPLOYMENT INSURANCE ACCOUNT

Section 1. Notwithstanding any requirements of Section 9 of the Montana Unemployment Compensation Law (Chapter 137 of the Twenty-fifth Legislative Assembly, 1937), the Unemployment Compensation Commission of Montana, shall, prior to July 1, 1939, authorize and direct the Secretary of the Treasury of the United States to transfer from the Unemployment Compensation Trust Fund for the State of Montana, established and maintained pursuant to Section 904 of the Federal Social Security Act, as amended, to the Railroad Unemployment Insurance account established and maintained pursuant to Section 10 of the Railroad Unemployment Insurance Act (52 Stat. 1094), an amount hereinafter referred to as the preliminary amount; and shall, prior to December 31, 1939, authorize and direct the Secretary of the Treasury of the United States to transfer from the Montana Unemployment Compensation Trust Fund to said Railroad Unemployment Insurance account an additional amount, hereinafter referred to as the liquidating amount. The preliminary amount shall consist of that proportion of the balance in the unemployment compensation trust fund as of June 30, 1939, as the total amount of contributions collected from "employers" (as the term employer is defined in Section 1 (a) of the Railroad Unemploy-

ment Insurance Act) and credited to the Montana Unemployment Compensation Trust Fund bears to all contributions theretofore collected under this act and credited to such fund. The liquidating amount shall consist of the total amount of contribution collected from "employers" (as the term employer is defined in Section 1 (a) of the Railroad Unemployment Insurance Act) pursuant to the provisions of this act during the period from July 1, 1939 to December 31, 1939, inclusive.

Section 2. The Unemployment Compensation Commission of Montana is hereby authorized to co-operate with and enter into agreements with the Railroad Retirement Board with respect to establishment, maintenance and use of Montana State Employment Service facilities, and to make available to the said Railroad Retirement Board the records of the Commission relating to employers' status and contributions received from employers covered by the Railroad Unemployment Insurance act, together with employee wage records and such other data as the Railroad Retirement Board may deem necessary or desirable for the administration of the Railroad Unemployment Insurance Act (52 Stat. 1094); that any moneys received by the Unemployment Compensation Commission of Montana from the Railroad Retirement Board or any other governmental agency with respect to the establishment, maintenance and use of Montana State Employment Service facilities, shall be paid into and credited the proper division of the Unemployment Compensation Administration Fund set up and established under Section 13 of the Montana Unemployment Compensation Act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

UNEMPLOYMENT COMPENSATION COMMISSION

Section 10 (a) Organization. There is hereby created a Commission to be known as the Unemployment Compensation Commission of Montana. The Commission shall consist of three members who shall be appointed by the Governor on a non-partisan merit basis within sixty days after the passage of this act and after any vacancy occurs in its membership. Two of the members of the Commission shall serve on a per diem basis and shall be paid at the rate of ten ($10.00) dollars per day of service plus actual and necessary expenses, provided, however, that the total per diem compensation in any one year for each of the said two members shall not exceed the sum of five hundred ($500.00) dollars. Each per diem member shall hold office for a term of six years, except that (1) a member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and (2) the terms of office of the member first taking office after the date of enactment of this act shall expire, as desig-

nated by the Governor at the time of appointment, one at the end of three years, the other at the end of six years. The third member of the Commission, who shall be designated as chairman at the time of his appointment, shall be paid a full-time salary in an amount to be fixed by the Governor and shall be the executive director. During his term of membership on the Commission no member shall serve as an officer or committee member of any political party organization. The Governor may at any time, after notice and hearing, remove any commissioner for inefficiency, neglect of duty, malfeasance, misfeasance, or nonfeasance in office.

(b) Divisions. The Commission shall establish two co-ordinate divisions: The Montana State Employment Service division created pursuant to Section 12 of this act, and the Unemployment Compensation division. Each division shall be responsible to the executive director for the discharge of its distinctive function. Each division shall be a separate administrative unit with respect to personnel, budget, and duties except insofar as the Commission may find that such separation is impracticable.

(c) Quorum. Any two commissioners shall constitute a quorum. No vacancy shall impair the right of the remaining commissioners to exercise all of the powers of the Commission.

ADMINISTRATION

Section 11. (a) Duties and Powers of Commission It shall be the duty of the Commission to administer this act; and it shall have power and authority to adopt, amend, or rescind such rules and regulations, require such reports, make such investigations, and take such other action as it deems necessary or suitable to that end. Such rules and regulations shall be effective upon publication in the manner, not inconsistent with the provisions of this act, which the Commission shall prescribe. The Commission shall determine its own organization and methods of procedure in accordance with the provisions of this act, and shall have an official seal which shall be judicially noticed. Not later than the 1st day of February of each year, the Commission shall submit to the Governor a report covering the administration and operation of this act during the preceding calendar year and shall make such recommendations for amendments to this act as the Commission deems proper. Such report shall include a balance sheet of the moneys in the fund in which there shall be provided, if possible, a reserve against the liability in future years to pay benefits in excess of the then current contributions, which reserve shall be set up by the Commission in accordance with accepted actuarial principles on the basis of statistics of employment, business activity, and other relevant factors for the longest possible period. Whenever the Commission believes that a change in contribu-

tion or benefit rates will become necessary to protect the solvency of the fund, it shall promptly so inform the Governor and the legislature, and make recommendations with respect thereto.

(b) Regulations and General and Special Rules. General and special rules may be adopted, amended, or rescinded by the Commission only after public hearing or opportunity to be heard thereon, of which proper notice has been given. General rules shall become effective ten days after filing with the secretary of state and publication in one or more newspapers of general circulation in this state. Special rules shall become effective ten days after notification to or mailing to the last known address of the individuals or concerns affected thereby. Regulations may be adopted, amended, or rescinded by the Commission and shall become effective in the manner and at the time prescribed by the Commission.

(c) Publication. The Commission shall cause to be printed for distribution to the public the text of this act, the Commission's regulations and general and special rules, its annual reports to the Governor and any other material the Commission deems relevant and suitable and shall furnish the same to any person upon application therefor.

(d) Personnel. Subject to other provisions of this act, the Commission is authorized to appoint, fix the compensation and prescribe the duties and powers of such officers, accountants, attorneys, experts, and other persons as may be necessary in the performance of its duties under this act. The Commission may delegate to any such persons such power and authority as it deems reasonable and proper for the effective administration of this act, and may in its discretion bond any person handling money or signing checks hereunder. The Commission shall classify positions under this act and shall establish salary schedules and minimum personnel standards for the positions so classified. The Commission shall provide for the holding of examinations to determine the qualifications of applicants for the positions so classified, and except for temporary appointments of not to exceed six months in duration, such personnel shall be appointed on the basis of efficiency and fitness as determined in such examinations. No person who is an officer or committee member of any political party organization or who holds or is a candidate for any public office shall be appointed or employed under this act. The Commission shall establish and enforce fair and reasonable regulations for appointments, promotions, and demotions based upon ratings of efficiency and fitness and for terminations for cause.

(e) Records and Reports. Each employing unit shall keep true and accurate work records, containing such information as the Commission may prescribe. Such records shall be open to inspection and shall be subject to being copied by the Commission or its authorized representative at any reasonable time

and as often as may be necessary. The Commission and the chairman of any appeal tribunal may require from any employing unit any sworn or unsworn reports with respect to persons employed by it which the Commission deems necessary to the effective administration of this act. Information thus obtained or obtained from any individual pursuant to the administration of this act shall except to the extent necessary for the proper presentation of a claim be held confidential and shall not be published or be open to public inspection (other than to public employees in the performance of their public duties) in any manner revealing the individual's or employing unit's identity, but any claimant or his legal representative at a hearing before the Commission or appeal tribunal shall be supplied with information from such records to the extent necessary for the proper presentation of his claim. Any employee or member of the Commission who violates any provision of this section shall be fined not less than twenty dollars nor more than two hundred dollars, or imprisonment for not longer than 90 days, or both.

(f) Oaths and Witnesses. In the discharge of the duties imposed by this act, the chairman of an appeal tribunal and any duly authorized representative or member of the Commission shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with a disputed claim or the administration of this act.

(g) Subpoenas. In case of contumacy by, or refusal to obey a subpoena issued to any person, any court of this State within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the chairman of an appeal tribunal, the Commission or any duly authorized representative of any of them shall have jurisdiction to issue to such person an order requiring such person to appear before the chairman of an appeal tribunal, a commissioner, the Commission, or any duly authorized representative of any of them, there to produce evidence if so ordered or there to give testimony touching the matters under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof. Any person who shall without just cause fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, if it is in his power to do so, in obedience to a subpoena of the Commission, the chairman of an appeal tribunal or any duly authorized representative of any of them shall be punished by a fine of not more than $200 or by imprisonment for not longer than sixty days, or

both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense.

(h) Protection Against Self-Incrimination. No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before the Commission, the chairman of an appeal tribunal or any duly authorized representative of any of them or in obedience to the subpoena of the Commission or any member thereof or any duly authorized representative of the Commission in any case or proceeding before the Commission, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(i) State-Federal Co-operation. In the administration of this act, the Commission shall co-operate to the fullest extent consistent with the provisions of this act with the Social Security Board, created by the Social Security Act, approved August 14, 1935, as amended; shall make such reports, in such form and containing such information as the Social Security Board may from time to time require, and shall comply with such provisions as the Social Security Board may from time to time find necessary to assure the correctness and verification of such reports; and shall comply with the regulations prescribed by the Social Security Board governing the expenditures of such sums as may be allotted and paid to this State under Title III of the Social Security Act for the purpose of assisting in the administration of this act.

Upon request therefor the Commission shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under this act.

(j) Reciprocal Benefit Arrangements. The Commission is hereby authorized to enter into arrangements with the appropriate agencies of other states or the federal government, whereby individuals performing services in this and other states for a single employing unit under circumstances not specifically provided for in this act, or under similar provisions of the unemployment compensation laws of such other states, shall be deemed to be engaged in employment performed entirely within this State or within one of such other states and whereby

potential rights to benefits accumulated under the unemployment compensation laws of several states or under such a law of the federal government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which the Commission finds will be fair and reasonable as to all affected interests, and will not result in any substantial loss to the fund.

EMPLOYMENT SERVICE

Section 12. (a) State Employment Service. The Commission shall create a division to be known as the Montana State Employment Service which division shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this act, and for the purpose of performing such duties as are within the purview of the act of Congress entitled; "An act to provide for the establishment of a national employment system and for co-operation with the states in the promotion of such system, and for other purposes," approved June 6, 1933 (48 Stat. 113; U.S.C., Title 29, Sec. 49. (c), as amended. The said division shall be administered by a full time salaried director. **[The Commission]** shall be charged with the duty to co-operate with any official or agency of the United States having powers or duties under the provisions of the said act of congress, as amended, and to do and perform all things necessary to secure to this state the benefits of the said act of congress, as amended, in the promotion and maintenance of a system of public employment offices. The provisions of the said act of congress, as amended, are hereby accepted by this State, in conformity with Section 4 of said act, and this State will observe and comply with the requirements thereof. The **[Unemployment Compensation Commission]** is hereby designated and constituted the agency of this State for the purpose of said act. The Commission is directed to appoint the **[personnel]** of the Montana State Employment Service. **[For the purpose of establishing and maintaining free public employment offices, the Commission is authorized to enter into agreements with any political subdivisions of this State or with any private, non-profit organization, and as a part of any such agreement the Commission may accept moneys, services, or quarters as a contribution to the employment service account.]**

UNEMPLOYMENT COMPENSATION ADMINISTRATION FUND

Section 13. (a) Special Fund. There is hereby created in the state treasury a special fund to be known as the unemployment compensation administration fund. All moneys which are deposited or paid into this fund are hereby appropriated and made available to the Commission. All moneys in this fund shall be expended solely for the purpose of defraying

the cost of the administration of this act, and for no other purpose whatsoever. **[All moneys in this fund received pursuant to Section 302 of the Social Security Act from the Federal Government, or any other Federal agency for the furtherance of the objects of this law, shall be expended solely for the purposes and in the amounts found necessary by the Social Security Board for the proper and efficient administration of this act.]** The fund shall consist of all moneys appropriated by this state, and all moneys received from the United States of America, or any agency thereof, including the social Security Board and the United States Employment Service, or from any other source, for such purpose. All moneys in this fund shall be deposited, administered, and disbursed, in the same manner and under the same conditions and requirements as is provided by law for other special funds in the state treasury. Any balances in this fund shall not lapse at any time, but shall be continuously available to the Commission for the expenditure consistent with this act. The state treasurer shall give a separate and additional bond conditioned upon the faithful performance of his duties in connection with the unemployment compensation administration fund in an amount to be fixed by the Commission and in a form prescribed by law or approved by the attorney general. The premiums for such bond and the premiums for the bond given by the treasurer of the unemployment compensation fund under Section 9 of this act, shall be paid from the moneys in the Unemployment Compensation Administration fund.

(b) **[Reimbursement of Fund. This State recognizes its obligation to replace, and hereby pledges the faith of this State that funds will be provided in the future, and applied to the replacement of any moneys received after July 1, 1941, from the Social Security Board under Title III of the Social Security Act, any unencumbered balances in the Unemployment Compensation Administration Fund as of that date, any moneys thereafter granted to this State pursuant to the provisions of the Wagner-Peyser Act, and any moneys made available by the State or its political subdivisions and matched by such moneys granted to this State pursuant to the provisions of the Wagner-Peyser Act, which the Social Security Board finds have, because of any action or contingency, been lost or have been expended for purposes other than, or in amounts in excess of, those found necessary by the Social Security Board for the proper administration of this act. Such moneys shall be promptly supplied by moneys furnished by the State of Montana or any of its subdivisions for the use of the Unemployment Compensation Commission and used only for purposes approved by Social Security Board. The Commission shall, if necessary, promptly report to the Governor and the Governor to the Legislature, the amount required for such replacement. This subdivision shall not be construed to relieve this State of its obligation with respect to funds received prior to July 1, 1941,**

pursuant to the provisions of Title III of the Social Security Act.]

COLLECTION OF CONTRIBUTIONS

Section 14. (a) Interest on Past Due Contributions. Contributions unpaid on the date on which they are due and payable, as prescribed by the Commission, shall bear interest at the rate of one (1%) percentum per month from and after such date until payment plus accrued interest is received by the Commission. Interest collected pursuant to this subsection shall be paid into the unemployment compensation fund.

(b) Collection. If, after due notice, any employer defaults in any payment of contributions or interest thereon, the amount due shall be collected by civil action in the name of the Commission, and the employer adjudged in default shall pay the costs of such action. Civil actions brought under this Section to collect contributions or interest thereon from an employer shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this act and cases arising under the workmen's compensation law of this State. **[Action for the collection of contributions due shall be brought within five (5) years after the due date of such contributions, otherwise to be barred as provided in Section 9030, Revised Codes of Montana, 1935.]**

(c) Priorities Under Legal Dissolutions or Distributions. In the event of any distribution of an employer's assets pursuant to an order of any court under the laws of this State, including any receivership, assignment for benefit of creditors, adjudicated insolvency, composition, or similar proceeding, contributions then or thereafter due shall be paid in full prior to all other claims except taxes and claims for wages of not more than two hundred fifty ($250.00) dollars to each claimant, earned within six (6) months of the commencement of the proceeding. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the federal bankruptcy act, contributions then or thereafter due shall be entitled to priority of payment as a debt due the sovereign power as provided by the bankruptcy act of June 22, 1938. (Chap. 572-52 Stat. 840).

(d) Refunds. If not later than three (3) years after the date on which any contributions or interest thereon became due, an employer who has paid such contributions or interest thereon shall make application for an adjustment thereof in connection with subsequent contribution payments, or for a refund thereof because such adjustment cannot be made, and the Commission shall determine that such contributions or interest or any portion thereof was erroneously collected, the Commission shall allow such employer to make an adjustment

thereof, without interest, in connection with subsequent contribution payments by him, or if such adjustment cannot be made the Commission shall refund said amount, without interest, from the fund. For like cause and within the same period adjustment or refund may be so made on the Commission's own initiative.

(e) [Lien for Payment. If any contributions payable by an employer under this act, or any portion thereof, is not paid within sixty (60) days after the same becomes due, the Commission may issue a certificate under its official seal, setting forth the amount of contributions due and interest accrued, directed to the sheriff of any county of the State, commanding him to levy upon and sell the real and personal property of the employer owing the same, found within his county, for the payment of the amount thereof, with the added penalties, interest and costs of executing the same and to return such certificates to the Commission and pay to the Commission the money collected by virtue thereof by a time to be therein specified, not more than ninety (90) days from the date of the certificate. The said sheriff shall, within five (5) days after the receipt of the certificate, file with the clerk of the district court of his county a copy thereof and thereupon the said clerk of the district court shall enter in the judgment docket, in the column for judgment debtors, the name of the employer mentioned in the certificate, and in the appropriate columns the amount of contributions due and the penalties for which the certificate is issued and the date when such copy is filed and thereupon the amount of such certificate so docketed shall become a lien upon the title to and interest in real property or chattel real of the employer against whom it is filed in the same manner as a judgment docketed in the office of such clerk. The said sheriff shall thereupon proceed upon the same in all respects, with like effect, and in the same manner prescribed by law in respect to executions issued against property upon judgment of a court of record, and shall be entitled to the same fees for his services in executing the certificate, to be collected in the same manner.]

PROTECTION OF RIGHTS AND BENEFITS

Section 15. (a) Waiver of Rights Void. Any agreement by an individual to waive, release or communicate his rights to benefits or any other rights under this act shall be void. Any agreement by any invididual in the employ of any person or concern to pay all or any portion of an employer's contributions, required under this act from such employer, shall be void. No employer shall directly or indirectly make or require or accept any deduction from wages to finance the employer's contributions required from him, or require or accept any waiver of any right hereunder by an individual in his employ. Any employer or officer or agent of an employer who violates

any provision of this subsection shall, for each offense, be fined not more than one thousand ($1,000.00) dollars or be imprisoned for not more than six (6) months, or both.

(b) Limitation of Fees. No individual claiming benefits shall be charged fees of any kind in any proceeding under this act by the Commission or its representatives or by any court or any officer thereof. Any individual claiming benefits in any proceeding before the chairman of an appeal tribunal or the Commission or its representatives or a court may be represented by counsel or other duly authorized agent; but no such counsel or agents shall either charge or receive for such services more than an amount approved by the Commission. Any person who violates any provision of this subsection shall, for each such offense, be fined not more than $500, or imprisoned for not more than six months, or both.

(c) No Assignment of Benefits; Exemptions. Any assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under this act shall be void; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt; and benefits received by any individual, so long as they are not mingled with other funds of the recipient, shall be exempt from any remedy whatsoever for the collection of all debts except debts incurred for necessaries furnished to such individual or his spouse, or dependents during the time when such individual was unemployed. Any waiver of any exemption provided for in this subsection shall be void.

(d) [Any individual who is inducted or enlisted in the armed forces of the United States, shall not be considered as unemployed for the purposes of this act. Wage records accumulated by an individual who is inducted or enlisted in the armed forces of the United States, shall be maintained intact by the Commission during the period of time such individual is in service and for ninety (90) days thereafter. Any individual who desires to preserve such wage records while serving in the armed forced of the United States shall notify the Commission immediately upon being inducted or enlisted in such service, giving the date of the beginning of such service. The "base period" for benefit purposes of such individual shall be fixed and determined as of the date of such enlistment or induction into service. The wage records of such individuals shall thereupon be segregated by the Commission and be maintained until the ending of such military service by the individual. Upon completing the period of service in the armed forces or discharge therefrom and upon fulfilling the eligibility requirements of Section 4 (a), (b), (c) and (d), the said individual shall be entitled to benefits under this act provided the wage credits earned by such individual prior to military

service are sufficient and within the "base period" as above set out to establish eligibility under Section 4 (e). If by an act of Congress or Federal legislation unemployment compensation benefits or similar benefits should be established for individuals in service, the Commission is hereby authorized and instructed to co-operate in such manner as may be deemed advisable and expedient in order to carry out the purpose of this act.]

PENALTIES

Section 16. (a) Whoever makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this act, either for himself or for any other person, shall be punished by a fine of not more than $500 or by imprisonment for not longer than thirty days in the county jail or by both such fine and imprisonment; and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense.

(b) Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining subject hereto or to avoid or reduce any contribution or other payment required from an employing unit under this act, or who wilfully fails or refuses to make any such contributions or other payment or to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, shall be punished by a fine of not more than $500 or by imprisonment for not longer than sixty days in the county jail or by both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense.

(d) Any person who, by reason of the non-disclosure or misrepresentation by him or by another, of a material fact (irrespective of whether such non-disclosure or misrepresentation was known or fraudulent) has received any sum as benefits under this act while any conditions for the receipt of benefits imposed by this act were not fulfilled in his case, or while he was disqualified from receiving benefits, shall, in the discretion of the Commission, either be liable to have such sum deducted from any future benefits payable to him under this act or shall be liable to repay the Commission for the unemployment compensation fund, a sum equal to the amount so received by him, and such sum shall be collectible in the manner provided in this act for the collection of past due contributions.

REPRESENTATION IN COURT

Section 17. **(a)** In any civil action to enforce the provisions of this act the Commission and the State may be represented by any qualified attorney who is employed by the Commission and is designated by it for this purpose or at the Commission's request by the attorney general.

(b) All criminal actions for violation of any provision of this act, or of any rules or regulations issued pursuant thereto, shall be prosecuted by the attorney general of the State; or, at his request and under his direction, by the prosecuting attorney of any county in which the employer has a place of business or the violator resides.

NONLIABILITY OF STATE

Section 18. Benefits shall be deemed to be due and payable under this act only to the extent provided in this act and to the extent that moneys are available therefor to the credit of the unemployment compensation fund, and neither the State nor the Commission shall be liable for any amount in excess of such sums.

DEFINITIONS

Section 19. As used in this act, unless the context clearly requires otherwise:

(a) (1) "Annual payroll," means the total amount of wages **[paid]** by an employer (regardless of the time of payment) for employment during a calendar year.

(2) "Average annual payroll," means the average of the annual payrolls of an employer for the last three (3) or five (5) preceding calendar years, whichever average is higher.

(b) "Benefits," means the money payments payable to an individual, as provided in this act, with respect to his unemployment.

(c) "Base period," means the first four (4) of the last five (5) completed calendar quarters immediately preceding the first day of an individual's benefit year.

(d) "Benefit year," with respect to any individual means, the fifty-two (52) consecutive-week period beginning with the date of filing of a valid claim by said individual, and thereafter the fifty-two-consecutive-week period beginning with the date of the next valid claim filed after the termination of his last preceding benefit year.

(e) "Calendar quarter," means the period of three (3) consecutive calendar months ending on March 31, June 30, September 30, or December 31, excluding however, any calendar quarter or portion thereof which occurs prior to January

1, 1937, or the equivalent thereof as the Commission may by regulation prescribe.

(f) "Commission," means the Unemployment Compensation Commission established by this act.

(g) "Contributions," means the money payments to the state unemployment compensation fund required by this act.

(h) "Employing unit," means any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ one (1) or more individuals performing services for it within this State. All individuals performing services within this State for any employing unit which maintains two (2) or more separate establishments within this State shall be deemed to be employed by a single employing unit for all the purposes of this act. Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this act, whether such individual was hired or paid directly by such employing unit or by such agent or employee, provided the employing unit had actual or constructive knowledge of the work.

(i) "Employer" means:

(1) Any employing unit which for some portion of a day in each of twenty (20) different weeks, whether or not such weeks are or were consecutive within either the current or the preceding calendar year, has or had in employment, one or more individuals (irrespective of whether the same individuals are or were employed in each such day); **[or]** whose total annual payroll within either the current or the preceding calendar year, exceeds the sum of five hundred ($500.00) dollars.

(2) Any individual or employing unit which acquired the organization, trade or business, or substantially all the assets thereof, of another which at the time of such acquisition was an employer subject to this act;

(3) Any individual or employing unit which acquired the organization, trade or business, or substantially all the assets thereof, of another employing unit (not an employer subject to this act), and which, if subsequent to such acquisition it were treated as a single unit with such other employing unit would be an employer under paragraph (1) of this subsection;

(4) Any employing unit which, having become an employer under paragraph (1), (2) or (3) has not, under Section 10, ceased to be an employer subject to this act; or

(5) For the effective period of its election pursuant to Section 8 (c) any other employing unit which has elected to become fully subject to this act.

(j) (1) "Employment" subject to other provisions of this Subsection means service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied.

(2) The term "employment" shall include an individual's entire service, performed within or both within and without this State if:

(A) The service is localized in this State; or:

(B) The service is not localized in any state but some of the service is performed in this State and (I) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this State; or (II) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this State.

(3) Service not covered under paragraph (2) of this subsection, and performed entirely without this State, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this act if the individual performing such services is a resident of this State and the Commission approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this act.

(4) Service shall be deemed to be localized within a state if—

(A) The service is performed entirely within such state; or

(B) The service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the State, for example, is temporary, or transitory in nature or consists of isolated transactions.

(5) Services performed by an individual for wages shall be deemed to be employment subject to this act unless and until it is shown to the satisfaction of the Commission that:

(A) Such individual has been and will continue to be free from control or direction over the performance of such services, both under his contract and in fact; and

(B) Such service is either outside the usual course of business for which such service is performed, or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

(C) Such individual is customarily engaged in an independently established trade, occupation, profession or business.

(6) The term "employment" shall not include:

(A) Agricultural labor;

(B) Domestic service in a private home, **[local college club or local chapter of a college fraternity or sorority;]**

(C) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

(D) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one (21) in the employ of his father or mother;

(E) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, **[or wild life and anglers clubs or associations,]** no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(F) Service performed in the employ of this State; or of any political subdivision thereof, or of any instrumentality of this State or its political subdivisions;

(G) Service performed in the employ of any other state or its political subdivisions or of the United States Government, or of an instrumentality of any other state or states or their political subdivisions or of the United States, **[except that national banks organized under the National Banking Law shall not be entitled to exemption under this section and shall be subject to this act the same as state banks.]**

(H) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of Congress; provided, that the Commission is hereby authorized and directed to enter into agreements with the proper agencies under such act of Congress, which agreements shall become effective ten (10) days after publication thereof in the manner in Section 11 (b) of this act for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this act, acquired rights to unemployment compensation under such act of Congress, or who have, after acquiring potential rights to unemployment compensation under such act of Congress, acquired rights to benefits under this act.

(k) "Employment office," means a free public office, or branch thereof, operated by this State or maintained as a part of a state-controlled system of public employment offices.

(l) "Fund," means the unemployment compensation fund established by this act, to which all contributions required and from which all benefits provided under this act shall be paid.

(m) "State," includes, in addition to the states of the United States of America, Alaska, Hawaii and the District of Columbia.

(n) "Total unemployment:"

(1) An individual shall be deemed "totally unemployed" in any week during which he performs no services and with respect to which no wages are payable to him.

(2) An individual's week of unemployment shall be deemed to commence only after his registration at an employment office, except as the Commission may by regulation otherwise prescribe.

(3) As used in this subsection the term "wages" shall include only that part of remuneration for odd jobs or subsidiary work, or both, which is in excess of five ($5.00) dollars in any one week, and the term "services" shall not include that part of odd jobs or subsidiary work, or both, for which remuneration equal to or less than five ($5.00) dollars per week is payable.

(o) "Unemployment Compensation Administration Fund," means the unemployment compensation administration fund established by this act, from which administrative expenses under this act shall be paid.

(p) "Wages," means all remuneration payable for personal services, including commissions and bonuses and the cash value of all remuneration payable in any medium other than cash. The reasonable cash value of remuneration payable in any medium other than cash, shall be estimated and determined in accordance with rules prescribed by the Commission. **[Commencing January 1, 1941, "wages," means all remuneration up to and including three thousand ($3,000.00) dollars in a calendar year paid for personal services, including commissions and bonuses and the cash value of all remuneration paid in any medium other than cash. The reasonable cash value of all remuneration paid in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the Commission.]**

[Wage records kept by the Commission for the purposes of this act prior to January 1, 1941, shall be kept on the basis of wages payable, and wage records kept by the Commission for the purposes of this act after January 1, 1941, shall be kept on the basis of wages paid.]

(q) "Week," means such period of seven (7) consecutive calendar days, as the Commission may by regulation prescribe.

(r) "Weekly benefit amount." An individual's "weekly benefit amount," means the amount of benefits he would be entitled to receive for one (1) week of total unemployment.

SAVING CLAUSE

Section 20. The legislature reserves the right to amend or repeal all or any part of this act at any time; and there shall be no vested private right of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this act or by acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal this act at any time.

Section 21. If any section, subsection, sentence, clause, or phrase of this act is for any reason held unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislative assembly declares that it would have passed this act and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more section, subsection, sentence, clause or phrase be declared unconstitutional, the same being necessary to the welfare of the State of Montana, and the political subdivisions thereof by reason of the existence of an extraordinary emergency.

Section 22. Act to Be In Effect. If Title III or Title IX of the "Federal Social Security Act" is declared unconstitutional, or in any way becomes inoperative, then this Act shall terminate and cease and have no force and effect as of the date when said title or titles of said act is declared unconstitutional, or becomes inoperative.

Section 23. Approval by Social Security Board. If the Federal Social Security Board shall fail to approve this Act, the same shall immediately terminate and have no force and effect.

Section 24. Effective Date. The legislature hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health and safety; that an emergency exists, and that this act, therefore, shall take effect and be in force from and after its passage and approval.

Chapter 137, Session Laws of Montana, 1937.
Approved March 16, 1937.

Chapter 137, Session Laws of Montana, 1939.
Approved March 9, 1939.

Chapter 164, Session Laws of Montana, 1941.
Approved March 17, 1941.

RULES AND REGULATIONS

RULE 1. CASH VALUE OF CERTAIN REMUNERATIONS

Adopted by Commission July 1, 1937

(a) If board, lodging, or any other payment in kind, considered as payment for services performed by a worker, is in addition to or in lieu of "rather than a deduction from" money wages, the Commission shall determine or approve the cash value of such board and lodging in individual cases for the purpose of computing contributions due under the law.

(b) Where a cash value for such board and lodging furnished a worker is agreed upon in any contract of hire, the amount so agreed upon shall, if more than the rates prescribed herein, be deemed the value of such board and lodging. Until and unless in a given case a rate for board and lodging is determined by the Commission, board and lodging furnished in addition to money wages shall be deemed to have not less than the following value:

Full board and room, weekly	$7.50
Meals, per week	5.00
Meals, per day	.75
Meals, per meal	.25
Lodging, per week	2.50

RULE 2. GRATUITIES

Adopted by Commission July 1, 1937

If gratuities constitute partial or entire payment for service performed by a worker the employer shall include as wages the amount of gratuities or tips actually received by each worker, or shall make reasonable valuation of the average remuneration from that source, showing in detail on a statement attached to the first contribution report for 1937 or the employer's first contribution report thereafter and thereafter as requested, the basis for such valuation.

The requirements of the Law and the instructions of the Commission relating to the reporting of wages are not to be construed as requiring, or permitting employers to require, workers to report to their employers the amount of their tips. The reporting of the exact amount of tips received by workers is to be made only with the voluntary consent of the workers.

REGULATION NO. 1
Contributions and Payment

Section 7 (a) of the Law provides in part, as follows "Such contributions shall become due and be paid by each employer to the Commission for the fund in accordance with such regulations as the Commission may prescribe and shall not be deducted, in whole or in part, from the wages of individuals in his employ."

The Unemployment Compensation Commission of Montana accordingly prescribes:

(1) Contributions for the first six months of 1937 shall become due and payable on or before the last day of July, 1937, and contributions for the last six months of 1937, shall become due and payable on or before the last day of January, 1938; beginning January 1, 1938, contributions by employers shall become due and payable quarterly for each calendar quarter as defined in Section 19 (e) on or before the last day of the months next following the calendar quarter for which contributions have accrued.

(2) Each quarterly payment shall include contributions with respect to wages (as defined in Section 19 (p)) for employment for all pay periods ending within the calendar quarter.

(3) Contributions are due and payable on all wages payable by each employer for each calendar year up to and including December 31, 1940 and the contribution report for the fourth quarter of 1940 (October, November, December) shall cover all wages payable for pay periods ending in December, and all wages payable for subsequent employment up to and including December 31, 1940.

(4) Beginning January 1, 1941, contributions are due and payable on all wages paid by each employer for each calendar year, and the contribution report for the first quarter (January, February, March) of 1941, shall cover all wages paid for pay periods ending in such quarter and succeeding calendar quarters, omitting therefrom all payments of wages paid where such payment is for services of employee already reported and contributions thereon paid in previous quarters on a "wage payable" basis.

(5) After wages up to and including $3,000 in any one calendar year, to any one individual employee, has been reported and contributions thereon paid by any employer, all further wages paid to such employee in such calendar year shall be reported on the contribution report and wage records submitted but the amount of such wages paid exceeding $3,000 shall be segregated from the total wages paid for contribution payment purposes.

For example, an employer who employs and pays an individual employee at $300.00 per month during a calendar year would report contributions as follows:

Period	Wages	Subject to Contribution	Not Subject to Contribution
First quarter, 1941	$ 900.00	$ 900.00	----------
Second quarter, 1941	900.00	900.00	----------
Third quarter, 1941	900.00	900.00	----------
Fourth quarter, 1941	900.00	300.00	600.00
	$3600.00	$3000.00	$600.00

An employer who employs and pays an individual employee at $500.00 per month during a calendar year, would report and pay contributions, as follows:

Period	Wages	Subject to Contribution	Not Subject to Contribution
First quarter, 1941	$1500.00	$1500.00	----------
Second quarter, 1941	1500.00	1500.00	----------
Third quarter, 1941	1500.00	----------	1500.00
Fourth quarter, 1941	1500.00	----------	1500.00
	$6000.00	$3000.00	$3000.00

(6) The first contribution payment of any employing unit which becomes an employer at any time during a calendar year, shall become due on, and shall be paid on or before the last day of the month, next following the calendar quarter in which such employing unit becomes an employer, and shall include contributions with respect to all wages (as defined in Section 19 (p)) for employment occuring on and after the first day of the calendar year and up to and including all pay periods ending within the calendar quarter in which the employer became subject; except that:

(a) The first contribution payment of any employing unit which elects, with the written approval of such election by the Commission, to become an employer, shall become due on, and shall be paid on or before the last day of the month next following the close of the calendar quarter in which the conditions of becoming an employer by election are satisfied, and shall include contributions with respect to all wages (as defined in Section 19 . (p)) for employment occurring on and after the date stated in such approval (as of which such employing unit becomes an employer), up to and including the calendar quarter in which the conditions of becoming an employer by election are satisfied.

(b) An employing unit which becomes an employer after June 30, of any calendar year, may, upon application, be authorized to pay its first contribution in installments, provided, however, that no installments shall be postponed beyond the 15th day preceding the last date for filing tax

returns under Subchapter C, Section 1604, Internal Revenue Code as amended 1939, and providing further that the entire unpaid balance shall be paid upon notice from the Commission if the employer fails to pay any installment when it falls due.

(7) Where an employer ceases to do business, sells or transfers the business or the major portion of the assets thereof, or becomes insolvent, or, in any case where the Commission shall deem it necessary, the Commission may demand immediate payment of the contributions due.

(8) Reports when no contributions have accrued. Every employer subject to the law is required to send in the regular quarterly contribution reports even though no contributions have accrued with respect to some particular quarter. Employers shall file reports for such periods indicating thereon that no wages have accrued or been paid during such period for services performed in employment subject to the act, and shall continue to file such reports until an application properly made for termination of coverage as provided for by Section 8 (b) shall have been approved by the Commission.

REGULATION NO. 2
Records and Reports

Section 11 (e) of the Montana Unemployment Compensation law provides in part:

"Each employing unit shall keep true and accurate work records containing such information as the Commission may prescribe. Such records shall be open to inspection and shall be subject to be copied by the Commission or its authorized representative at any reasonable time and as often as may be necessary. The Commission and the chairman of any appeal tribunal may require from any employing unit any sworn or unsworn reports with respect to persons employed by it which the Commission deems necessary to the effective administration of the act."

The Unemployment Compensation Commission of Montana, accordingly prescribes:

1. Each employing unit shall preserve existing records with respect to employment performed in its service on and after January 1, 1937, for a period of five years, as hereinafter set forth, and shall establish, maintain and preserve records with respect to workers engaged in employment on and after the effective date of this regulation which shall show:

(A) For Each Pay Period.
(1) The beginning and ending dates for such pay period.
(2) The total amount of wages (as defined in Section 19 (p)) for employment in such pay period.

(3) The number and date of weeks in which there were one or more workers in employment.

(B) For Each Worker.

(1) His name.

(2) His Social Security Account Number.

(3) His wages for each pay period, showing separately:

(a) Money wages, including special payments.

(b) Reasonable cash value of remuneration by the employer in any medium other than cash. (Rule 1).

(c) Estimated or actual amount of gratuities received from persons other than employer (Rule 2).

(d) Special payments of any kind including annual bonuses, gifts, prizes, etc.

(4) The date on which he was hired, rehired, or returned to work after temporary layoff;

(5) The date when work was terminated by layoff, quit, discharge, or death;

(6) The cause of any termination;

(7) If he is on a salary basis, his wage rate and the period covered by such rate.

(8) If he is paid on a fixed hourly basis, his hourly rate and the customarily scheduled hours per week prevailing in the establishment for his occupation.

(9) If he is paid on a fixed daily basis his daily rate and the customarily scheduled days per week prevailing in the establishment for his occupation.

(10) The method by which his wages are computed (if he is on a piece rate or other variable pay basis).

(11) An employer shall immediately notify the Commission of the commencement of any receivership or similar proceeding, or of any assignment for the benefit of creditors, and of any order of court under the laws of the State of Montana, with respect to the foregoing. An employer shall immediately notify the Commission of the filing of any voluntary or involuntary petition in bankruptcy or other proceeding under the Federal Bankruptcy Act.

2. Each employer shall report to the Unemployment Compensation Commission of Montana at the time of paying each quarterly contribution, all the information for each pay period covered by the contribution, concerning the number of workers, the total money wages and the total cash value of other remuneration together with average amount of gratuities, and any other data which is called for on the quarterly summary contribution report form furnished by the Commission, particularly as follows:

(A) The employer's registration number, name of employer and address at which pay roll records are maintained.

(B) The name and Social Security account number of each worker.

(C) The total wages (as defined in Section 19 (p)) for employment during pay periods ending within the quarter, showing separately:

(I) Money Wages.

(II) The Cash Value of other remuneration (Rule 1).

(III) Gratuities (Rule 2).

(D) Any special payments for services rendered other than those rendered exclusively in a given quarter.

E. Such other information as may be prescribed on the form.

3. Each employing unit shall comply with the instructions which are printed upon any report form issued by the Commission or accompanying any report form provided by the Commission and required to be returned to such Commission and which pertains to the preparation and return of any report. Such instructions shall have the force and effect of regulations issued pursuant to Section 11 of the Montana Unemployment Compensation law.

REGULATION NO. 3
Social Security Account Numbers *N. B.

Section 11 (a) provides in part:

The Montana Unemployment Compensation Law,

"It shall be the duty of the Commission to administer this act; and it shall have power and authority to adopt, amend or rescind such rules and regulations . . . and take such other action as it deems necessary or suitable to that end."

The Unemployment Compensation Commission of Montana, accordingly prescribes:

1. Each worker engaged in employment covered by the Montana Unemployment Compensation Law, including service covered by election of an employing unit, shall procure a Federal Social Security account number and furnish such number to every employer for whom he performs employment or services.

2. Each worker who does not have a Federal Social Security account number shall file an application therefor not later than one week after the effective date of this regulation, or after the first day on which he is engaged in covered employment for an employer, whichever occurs later. It shall be

*The above regulation applies equally to all workers regardless of age, whether over 65 years of age or under 21 years. Age does have a bearing on Old Age Benefit provisions of Title VIII of the Social Security Act, but does not apply to the coverage of workers under Title IX of the Social Security Act. A worker earning benefit rights under the Unemployment Compensation Law of Montana, is entitled to such rights regardless of age.

the duty of the employers to procure the appropriate forms for application for Social Security account numbers and to furnish such application forms to each worker engaged in covered employment in their employ who does not have a Federal Social Security account number.

3. If a worker engaged in covered employment for an employer does not have a Federal Social Security account number or fails to file an application therefor within one week after the effective date of this regulation, or after the first day on which such worker was engaged in covered employment for such employer, whichever occurs later, such employer shall, not later than two weeks after such day, file an application for a Federal Social Security account number for such worker. A worker who is engaged in covered employment for an employer and who does not have a Federal Social Security account number, shall not be relieved from his duty to file an application for a Federal Social Security account number by reason of his employer having filed an application for him.

REGULATION NO. 4
Posting of Notice to Workers

The Montana Unemployment Compensation Law, Section 11 (a) provides in part:

"It shall be the duty of the Commission to administer this act; and it shall have power and authority to adopt, amend or rescind such rules and regulations . . . and take such other action as it deems necessary or suitable to that end."

The Unemployment Compensation Commission of Montana, accordingly prescribes:

1. Every employer (including every employing unit which has elected, with the approvel of the Commission, to become an employer) shall post and maintain printed notices to his workers informing them that he is liable for contributions under the Montana Unemployment Compensation Law and has been so registered by the Commission. Such notices shall be of such form and design and in such numbers as the Commission may determine to be necessary and shall be posted in conspicuous places near the actual locations where workers' services are performed. No such notice shall be posted by any person or employing unit to whom an unemployment compensation account number has not been assigned by the Commission or who has ceased to be an employer.

REGULATION NO. 5
Regulation on Employment

The Montana Unemployment Compensation Law, Section 11 (a) provides in part:

"It shall be the duty of the Commission to administer this act; and it shall have power and authority to adopt, amend or rescind such rules and regulations . . . and take such other action as it deems necessary or suitable to that end."

The Unemployment Compensation Commission of Montana, accordingly prescribes:

1. If under Section 19 (j) (2) of the law, an individual's services are covered by the Unemployment Compensation Law of this State on the basis of the performance of some of his work in this State and the location in this State of either (1) his base of operations or place from which his services are directed and controlled, or (2) his residence, such bases of coverage will be presumed to remain unchanged until a permanent change occurs in employment status under (1) or (2) above, or the Commission, upon its own motion or upon written application, finds that such base of operations or place from which his services are directed or controlled, or residence, has been changed to another State or that no part of such individual's services are performed within this State.

Upon making such finding the Commission will notify the interested parties that the services of such individual have ceased to be "employment" subject to the act, as of the first day of the next wage reporting period succeeding the date of receipt by the employer of the notice of such finding.

This regulation shall be applicable only with respect to such circumstances as the Commission deems necessary for the effective administration of this act.

REGULATION NO. 6
"Valid Claim"

The Unemployment Compensation Law of Montana provides in part:

"Section 6 (a) **Filing.** Claims for benefits shall be made in accordance with such regulations as the Commission may prescribe . . . .

"(b) **Initial Determination.** A representative designated by the Commission, and hereinafter referred to as a deputy, shall promptly examine the claim and, on the basis of facts found by him, shall determine whether or not such claim is valid, and if valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and the maximum duration thereof." . . . .

The Unemployment Compensation Commission of Montana accordingly prescribes:

1. "Valid Claim" means a claim for benefits filed by an individual worker, by registering for work and filing claim

for benefits or waiting period week (Form 202) who has earned the qualifylng amount of wages in his base period so as to be eligible for benefits under Section 3 and Section 4 of the Law, whether or not he is eligible in terms of the disqualification provisions of Section 5 of the Montana Unemployment Compensation law.

REGULATION NO. 7
"Interested Parties"

The Unemployment Compensation Law of Montana, Section 6, provides in part:

"(a) Claims for benefits shall be made in accordance with such regulations as the Commission may prescribe." . . .

"(b) The deputy shall promptly notify the claimant and any other interested party of the decision and the reasons therefor. The deputy may for good cause reconsider his decision and shall promptly notify the claimant and such other interested parties of his amended decision and the reasons therefor." . . . .

The Unemployment Compensation Commission of Montana accordingly prescribes:

1. Only the claimant and his most recent employer shall be deemed to be interested parties for any claim for benefits within the meaning of Section 6 (b) of the act. Any other employing unit, for which the claimant may have rendered services during his base period, will be considered as an interested party as defined in this regulation, provided such employing unit shall have submitted a separation notice (Form 200) hereinafter provided for in subsequent regulation, specifying grounds for objection or disqualifications for such claimant's right to benefits.

2. Any other employer, for whom claimant may have rendered services within his base period, may, upon application to the Commission, be permitted to intervene as an interested party to any claim for benefits at any stage of the proceedings for the determination of the validity of such claim, upon a showing to the satisfaction of the Commission that his interests may be immediately and substantially affected by the allowance of the claim.

REGULATION NO. 8
"Week Defined"

The Unemployment Compensation Law of Montana provides in part:

"Section (29) (o) **"Week,"** means such period of seven consecutive calendar days, as the Commission may by regulations prescribe."

The Unemployment Compensation Commission of Montana accordingly prescribes:

1. The term "week" means a period of seven consecutive days, commencing Sunday and ending Saturday, except that:

A week of total unemployment shall consist of the seven consecutive day period beginning with the day of total unemployment on which claimant registers in person at an office of the Montana State Employment Service except that the Commission may accept any registration at such employment office within a period of seven days following an individual's first day of unemployment, if there shall be presented to the satisfaction of the Commission sufficient grounds to justify or excuse the delay.

Provided, that a week of total unemployment of an individual located in an area served only by the itinerant service of the Montana State Employment Service shall consist of the seven consecutive day period beginning with the first day of such individual's total unemployment, if such individual registers in person with such itinerant service at the first visit of such itinerant service next following the commencement of his total unemployment, or at the second visit provided good cause is shown to the satisfaction of the Commission for failure to so register at such first visit.

And provided, that a week of total unemployment of an individual filing a claim by mail shall consist of seven consecutive day periods beginning with the first day of unemployment, if such individual mails his written request for registration and benefit claim forms to the nearest Montana State Employment Service office within seven days of said first day of unemployment, and if such individual completes and mails such forms to the Unemployment Compensation Commission, Box 1727, Helena, Montana, not later than the day next following the date of receipt of such requested forms; except that if good cause for delay is shown to the satisfaction of the Commission, the Commission may excuse such delay in mailing of completed forms and permit such registration to be effective as of the first day of such individual's unemployment as first above provided.

A week of total unemployment of any individual affected by a mass separation, or by a strike, lockout, or other labor dispute with respect to which arrangements are made for group reporting by the employer as provided in Regulation 15, shall consist of the seven consecutive day period beginning with the first day of his total unemployment provided that notice thereof is filed by the individual within seven days next following his first day of total unemployment or at the end of his period of unemployment if the duration thereof is less than seven days.

Week of Disqualification. With respect to acts and periods of disqualification under Section 5 of the act which occur or commence before any week of another unemployment as defined in this regulation has commenced, "week" means the calendar week in which the disqualifying act or event occurs.

REGULATION NO. 9
Separations

The Unemployment Compensation Law of Montana provides in part:

Section 11 (a) It shall be the duty of the Commission to administer this act; and it shall have power and authority to adopt, amend, or rescind such rules and regulations, ... and take such other action as it deems necessary or suitable to that end.

The Unemployment Compensation Commission of Montana accordingly prescribes:

1. Whenever any worker is separated from his employment under conditions which may disqualify such worker from benefits under the terms and provisions of Section 5 of the Montana Unemployment Compensation Law, as amended, the employer shall within twenty-four hours after such separation send to the Unemployment Compensation Commission, Box 1727, Helena, Montana, the original of Separation Notice (Form 200) and deliver to the worker, or mail to his last known address, if delivery is impossible or impracticable, the duplicate copy thereof. The Separation Notice shall set forth:

(a) The worker's full name.
(b) His Social Security number.
(c) The nature of the work performed by said individual.
(d) The last day worked.
(e) The reason for disqualification.
(f) Whether such worker is receiving or has received wages in lieu of notice, and if so, the amount thereof and the period for which such wages are payable.
(g) Such other information as required by form.

2. Any employer who fails to furnish a Separation Notice or to indicate upon the Separation Notice his claim that such individual is disqualified for benefits under any of the provisions of Section 5 of this act, shall be barred from subsequently claiming such disqualification unless the Commission for reasons found to constitute good cause, shall relieve such employer of the default.

3. Whenever any employer separates any worker from his employment by reason of lack of work, or any cause, which is not a ground for disqualification, he shall deliver to such worker a Notice to Report (201).

4. Upon request by the Commission for a separation notice covering any worker separated from his work for any employer or employing unit, such employing unit or employer shall, within 48 hours following the receipt of such request completely fill out such notice and return it to the address specified in the notice.

REGULATION NO. 10
Claims for Benefits

The Unemployment Compensation Law of Montana, provides in part:

"Section 6 (a). **Filing.** Claims for benefits shall be made in accordance with such regulations as the Commission may prescribe."

The Unemployment Compensation Commission of Montana accordingly prescribes:

Except as otherwise provided for special circumstances, on and after July 1, 1939, any individual claiming benefits under the Montana Unemployment Compensation Law for unemployment, shall proceed in the following manner:

1. Any individual claiming benefits or waiting period credits for such unemployment under the act, shall report in person at the Montana State Employment Service office most accessible to him, and shall there register for work and file a claim for benefits. Thereafter such individual must report weekly in the manner and at the time designated by the Commission. The claim for benefits shall be filed on Form 202, which shall constitute both the registration for work and the claim for benefits or waiting period credits, and shall set forth the following:

(a) That he claims benefits.
(b) That he is able to work and available for work.
(c) That he registers for work.
(d) Such other information as is required by the form.

Provided, however, that if any individual was last employed or resides in any locality wherein provision is made for an itinerant Montana State Employment Service, such individual may register and file a claim for benefits (as provided above) in person with such itinerant employment service.

And provided further, that if reporting in person either to an office of, or to the itinerant representative of, the Montana State Employment Service is, in the opinion of the Commission, impractical, the filing of claims by mail with the Montana Unemployment Compensation Commission office at Helena, Montana, will be permitted.

2. In order to maintain continuing eligibility for benefits with respect to any weeks of such unemployment during any continuous period of unemployment, such individual shall continue to register and report in person or by mail, where registration and reporting by mail is permitted, on the dates specified for reporting to such service, and file continued claims for benefits. No continued claim for benefits shall be allowed until the claimant can furnish to the Commission a signed continued claim for benefits on Form 203 on which he shall set forth the following:

(a) That he continues his claim for benefits.

(b) That he is unemployed.

(c) That since he last registered for work he performed no work and earned no wages, except as reported herein.

(d) That he is able to work and available for work.

(e) That he registers for work.

(f) Such other information as may be required upon such form.

3. Where a continuous period of unemployment is terminated or interrupted by re-employment or by any other event which would prevent contiuuing eligibility, the claimant, after such termination or interruption, in order to receive benefits, for any week of unemployment for which he was in all respects eligible for benefits, shall furnish to the Commission a signed claim for benefits for such week on the form prescribed by the Commission (204) setting forth the following:

(a) That he claims benefits for the specified week.

(b) That during that week he was totally unemployed, or earned the wages specified in the claim.

(c) Such other information as may be required by the form.

4. Registration for benefit or waiting period weeks shall be effective as of the day, subsequent to his separation from work, on which an individual presents himself in person at a Montana State Employment Service office and registers for work and files claim for benefits in accordance with paragraph 1 of this regulation: Provided, that any disqualification occurring subsequent to any waiting period week, or compensable week shall not prejudice benefit rights accrued for such week or weeks. Any registration at such employment office within a period of seven days following an individual's first day of unemployment shall be deemed effective as of the first day of his unemployment, if there shall be presented to the satisfaction of the Commission sufficient grounds to justify or excuse the delay, except where the first day of an individual's unemployment occurs on a Sunday, in which event the registration shall be effective on the first day following each Sunday.

5. Registration for benefit or waiting period weeks by individuals located in places served only by an itinerant service of the Montana State Employment Service shall be effective as of the first day of the individual's unemployment if such individual registers for work with such itinerant service at the first visit thereof following the date of the separation of such individual from his employment, or at the second visit, provided good cause is shown to the satisfaction of the Commission for falure to so register at such first visit.

6. Registration for benefit or waiting period weeks by individuals located in places where reporting in person, either to a Montana State Employment Service office or to the itinerant employment service is impractical, shall be effective as of the first day of unemployment if such individual mails his written request for registration and benefit claim forms to the nearest regular Montana State Employment Service office within seven days of said first day of unemployment, and if such individual completes and mails such forms to the Unemployment Compensation Commission, Box 1727, Helena, Montana, not later than the day following the date of receipt of such requested forms. If such individual fails to complete his registration within the period above provided, by mailing his completed registration and claim forms within the day following receipt thereof, such individual's registration for benefits or waiting period weeks shall be effective as of the date of mailing of such completed registration and claim forms; provided, however, that if good cause be shown to the satsifaction of the Commission, for such delay, the Commission may excuse such delay in mailing of completed forms and permit such registration to be effective as of the first day of such individual's unemployment.

REGULATION NO. 11
Withdrawals from Trust Fund

Withdrawals from Unemployment Compensation Trust Fund for the State of Montana in the United States Treasury.

The Unemployment Compensation Law of Montana, provides, in part:

'Section 9 (c) **Withdrawals.** Moneys shall be requisitioned from this State's account in the Unemployment Trust Fund solely for the payment of benefits and in accordance with regulations prescribed by the Commission.''

The Unemployment Compensation Commission of Montana accordingly prescribes:

The Chairman and Executive Director of the Unemployment Compensation Commission of Montana, shall, on or before the tenth day of the month, commencing June 10, 1939, present to the Commission his estimate as to the amount of

money necessary to be requisitioned from the Unemployment Compensation Trust Fund for the State of Montana in the United States Treasury in order to meet the requirements of the benefits payable during the month next following. Upon receipt of such estimate, the Commission shall, by resolution spread upon the minutes of the Commission, authorize and direct the said Chairman and Executive Director, to forward a requisition for the amount set forth in said resolution to the Secretary of the Treasury of the United States of America, in accordance with Section 904 (f) of the Social Security Act. If at any time it becomes necessary to supplement the funds in the Benefit Account of the Commission for payment of claims during any given month, the Chairman and Executive Director, at any regular or special meeting of the Commission, shall present to the Commission an estimate of such emergency and/or additional amounts required, and by resolution and in the same manner as above prescribed for regular requisitions, the Commission may authorize and direct the withdrawal of additional and/or emergency amounts.

REGULATION NO. 12 (amended)
Initial Determinations

The Unemployment Compensation Law of Montana provides, in part:

"Section 6 (b) A representative designated by the Commission, and hereinafter referred to as a deputy, shall promptly examine the claim and, on the basis of facts found by him, shall either determine whether or not such claim is valid, and if valid, the week with respect to which benefits shall commence, the weekly benefit amount payable. . . . . ."

The Unemployment Compensation Commission of Montana accordingly prescribes:

1. Each local manager or other individual in charge of a Montana State Employment Service office and each Claims Examiner of the Unemployment Compensation Commission of Montana shall be deemed to be a deputy and is hereby designated a representative of the Commission to accept and examine claims for benefits.

2. Upon receiving a claim for benefits, the local office shall forward to the Central Office of the Unemployment Compensation Commission of Montana the original of the claim, and shall request from the Central Office a statement as to the benefit rights of the claimant. Upon receipt from the Central Office of this statement as to the claimant's benefit amount, duration of benefits, wage records, and other data pertinent to the claimant's benefit rights, a deputy in the local office shall consult with the claimant and obtain his approval or disapproval of the statement. In the event a claimant dis-

approves this statement, the deputy in the local office may re-transmit to the Central Office a report of the ground upon which the disapproval is based, his recommendations with respect thereto, and such additional pertinent data as he may obtain; the Central Office shall make such new statement as is necessary and shall promptly transmit such additional statement, revised or unrevised, to the local office. Upon receipt of the first statement, or upon receipt of the revised statement herein provided for, the deputy shall make the initial determination, based upon the statement of the Central Office and upon his findings as to the other eligibility requirements, and shall immediately notify the claimant of the initial determination. A copy of such initial determination shall be mailed promptly to interested parties as defined in Regulation No. 7 of the Commission.

3. Where the earnings of the claimant as shown by his wage records (Section 3 (c) of the Law) are not sufficient to qualify the claimant for the full weekly benefit amount as provided by Section 3 (b) of the Law, the claimant shall be determined to be eligible to draw as a weekly benefit amount, the largest sum per week as a benefit for which his wage credits can qualify him under Section 4 (e) of the Law.

4. When a claim for benefits is filed by a worker, where it appears that such worker was separated from his employment by reason of strike, lockout or other labor dispute, then and in that event, such claims shall be referred immediately to the Commission, together with a full and complete statement by the deputy of the facts with respect to such strike, lockout or other labor dispute. The Commission may, on its own initiative, investigate the facts and circumstances surrounding such strike, lockout or other labor dispute or may request that additional data be obtained and filed. The findings of fact and conclusions of law determined by the Commission relating to the factors set up in Section 5 (d) of the Law, shall be transmitted to the deputy as a decision upon the issues involved affecting the benefit rights of claimant, and others whose essential facts are similar, under said Section 5 (d)."

REGULATION NO. 13
Amended August 30, 1939
Appeal Tribunal

The Unemployment Compensation Law of Montana, provides in part:

"Section 6 (d). To hear and decide disputed claims the Commission shall appoint such impartial appeal tribunals consisting in each case of either a salaried examiner, selected in accordance with Section 11 (d) of this Act, or a body consisting of three members."

The Unemployment Compensation Commission of Montana accordingly prescribes:

1. The appeal tribunal shall consist of a salaried examiner and the Chief Field Auditor of the Unemployment Compensation Commission of Montana is hereby designated as that examiner and appeal tribunal, provided, however, that the Commission may by special appointment appoint other examiners and appeal tribunals consisting in some instances of a single individual or a body composed of a salaried examiner and two disinterested persons, one representing the employers and one representing the employees to hear special cases on appeal."

REGULATION NO. 14
Appeals

The Unemployment Compensation Law of Montana, provides in part:

"Section 6 (f). **Procedure.** The manner in which disputed claims shall be presented, the reports thereon required from the claimant and from employers, and the conduct of hearings and appeals shall be in accordance with regulations prescribed by the Commission for determining the rights of the parties, whether or not such regulations conform to common law or statutory rules of evidence and other technical rules or procedure."

The Unemployment Compensation Commission of Montana accordingly prescribes:

A. **APPEALS TO APPEAL TRIBUNAL** (First Appeal Stage.

1. **Presentation of Appealed Claims.**

(a). A party appealing from a decision or order of a deputy shall file with the Commission at the office where the claim was filed, a notice of appeal and a request for hearing on Form 214, setting forth the information required thereby. Copies shall be mailed by the Commission to the parties interested in the decision or order of the deputy which is being appealed.

(b) Upon the scheduling of a hearing on an appeal, notices of hearing shall be mailed to claimants and the parties interested in the decision or order of the deputy which is being appealed at least five days before the date of hearing, specifying the place and time of hearing.

2. **Disqualification of Members of Appeal Tribunals.**

No examiner shall participate in the hearing of an appeal in which he has an interest. Challenges to the interest of the examiner may be heard and decided by the Chairman of the Commission.

3. **Hearing of Appeal.**

(a) All hearings shall be conducted informally, and in such manner as to ascertain the substantial rights of the parties. All issues relevant to the appeal shall be considered and passed upon. The claimant and any other party to an appeal before an appeal tribunal may present such evidence as may be pertinent. Where a party appears in person, the members of an appeal tribunal shall examine such party and his witnesses, if any, and may cross-examine the witnesses of any opposing parties. The appeal tribunal with or without notice to any of the parties, may take such additional evidence as it deems necessary.

(b) The parties to an appeal, with the consent of the appeal tribunal, may stipulate the facts involved in writing. The appeal tribunal may decide the appeal on the basis of such stipulation, or, in its discretion, may set the appeal down for hearing and take such further evidence as it deems necessary to enable it to determine the appeal.

(c) The Examiner, during the conduct of any hearing, may indicate to the reporter portions of the evidence which are to be transcribed to aid in preparing findings of fact and decision.

4. **Adjournments of Hearings.**

(a) The Examiner **shall** use his best judgment as to when adjournments of a hearing shall be granted in order to secure all the evidence that is necessary and to be fair to the parties.

(b) If any party fails to appear at the hearing, the Examiner shall proceed to make his decision on the appeal, unless it appears to the satisfaction of the Examiner that there is good cause for further adjournment.

5. **The Determination of Appeals.**

(a) Following the conclusion of hearing of an appeal, the Examiner shall within ten days announce his findings of fact and decision with respect to the appeal. The decision shall be in writing and shall be signed by the Examiner. The Examiner shall set forth his findings of fact with respect to the matters appealed, his decision, and the reasons therefor.

(b) Copies of all decisions and the reasons therefor shall be mailed by the appeal tribunal to the claimant, to all other parties to the appeal, and to the deputy.

B. **APPEALS TO THE COMMISSION** (Second Appeal Stage.

1. **The Presentation of an Appeal to the Commission.**

(a) A party appealing from a decision of an appeal tribunal, or a deputy appealing from the decision of an appeal tribunal which overruled or modified his decision, shall file with the Commission, at the office where the claim was filed, a

notice of appeal to the Commission on Form 214, setting forth the information required thereby. Copies of the notice of appeal shall be mailed by the Commission to the parties interested in the **decision** of the appeal tribunal which is being appealed.

(b) Upon the scheduling of a hearing on an appeal, notices of hearing shall be mailed at least ten days before the date of hearing, specifying the place and time of hearing, to the claimant and to all other parties interested in the decision of the appeal tribunal which is being appealed.

2. **Hearing of Appeals.**

(a) Except as provided in Paragraph B-5 of this regulation, for the hearing of appeals removed to the Commission from an appeal tribunal, all appeals to the Commission may be heard upon the evidence in the record made before the appeal tribunal, or the Commission, to enable it to determine an appeal, may direct the taking of additional evidence before it.

(b) In the hearing of an appeal on the records, the Commission may limit the parties to oral argument, or the filing of written argument, or both. If, in the discretion of the Commission, additional evidence is necessary to enable it to determnie the appeal, the parties shall be notified by the Commission, as provided in Section 1 (b) of this regulation, of the time and place such evidence shall be taken. Any party to any proceeding in which testimony is taken may present such evidence as may be pertinent to the issue on which the Commission directed the taking of evidence.

(c) The Commission, in its discretion, may remand any claim or any issue involved in a claim to an appeal tribunal for the taking of such additional evidence as the Commission may deem necessary. Such testimony shall be taken by the appeal tribunal in the manner prescribed for the conduct of hearings on appeals before appeal tribunals. Upon the completion of the taking of evidence by an appeal tribunal pursuant to a direction of the Commission, the claim or issue involved in such claim shall be returned to the Commission for its decision thereon.

3. **The Hearing of Appeals by the Commission on its Own Motion.**

(a) Within ten days following a decision by an appeal tribunal, and in the absence of the filing, by any of the parties to the decision of the appeal tribunal, of a notice of appeal, the Commission, on its own motion, may order the parties to appear before it for hearing on the claim or any issue involved therein.

(b) Such hearing shall be held only after seven days prior notice to the parties to the decision of the appeal tribunal, and shall be heard in the manner prescribed in Section A-3

of this regulation, for the hearing of appeals by the Commission.

5. **The Hearing of Appeals by the Commission on Cases Ordered Removed to It From an Appeal Tribunal.**

The proceeding on any claim for an appeal tribunal ordered by the Commission to be removed to it shall be presented, heard and decided by the Commission in the **manner** prescribed in Section A-1, 2, 3 and 4, of this regulation for the hearing of claims before appeal tribunals.

6. **The Determination of Appeals.**

(a) Following the conclusion of a hearing on an appeal, the Commission shall within ten days announce its findings of fact and decision with respect to the appeal. The decision shall be in writing and shall be signed by the members of the Commission, who heard the appeal. It shall set forth the findings of fact of the Commission with respect to the matters appealed, its decision, and the reasons therefor.

(b) If a decision of the Commission is not unanimous, the decision of the majority shall control. The minority may file a dissent from such decision setting forth the reasons why it fails to agree with the majority.

(c) Copies of all decisions and the reasons therefor shall be mailed by the Commission to the claimant and to the other parties to the appeal before the Commission.

C. **GENERAL REGULATIONS FOR BOTH APPEAL STAGES.**

1. **Issuance of Subpoenas.**

(a) Subpoenas to compel the attendance of witnesses and the production of records for any hearing of an appeal, unless directed to issue by a member of the Commission, or the Examiner of an appeal tribunal, shall be issued by the Commission only upon a showing of the necessity therefor by the party applying for the issuance of the subpoenas.

(b) Witnesses subpoened for any hearing before an appeal tribunal or the Commission shall be paid **witness** and mileage fees by the Commission in accordance with the following schedule:

For attending, $1.50 per day; for each mile actually and necessarily traveled in going to and returning from place of hearing 5 cents per mile.

2. **Orders for Supplying Information from the Records of the Commission.**

(a) Orders for supplying information from the records of the Commission to a claimant or his representative to the extent necessary for the proper presentation of a claim shall issue only upon application therefor setting forth the information required thereby. All applications for information from

the records of the Commission shall state, as nearly as possible, the nature of the information desired.

(b) In all cases where an application to supply a claimant or his representative with information from the records of the Commission is granted, the party shall be furnished with a copy of such information.

3. **Representation Before Appeal Tribunals and the Commission.**

(a) Any individual may appear for himself in any proceeding before any appeal tribunal and the Commission. Any partnership may be represented by any of its members or a duly authorized representative. Any corporation or association may be represented by an officer or a duly authorized representative.

(b) Any party may appear by an attorney at law admitted to practice before any appeal tribunal or the Commission, or by any other person who is qualified to represent others.

(c) Attorneys at law who are admitted to practice before the highest court of this State, or the highest court of any State or territory of the United States, may practice before any appeal tribunal and the Commission.

(d) The Commission, in its **discretion,** may refuse to allow any person to represent others in any proceeding before it who, it finds guilty, of unethical conduct, or who intentionally and repeatedly fails to observe the provisions of the Montana Unemployment Compensation Law, or the regulations and instructions of the Commission.

4. **Inspection of Decisions of Appeal Tribunals and the Commission.**

Copies of all decisions of appeal tribunals and the Commission shall be kept on file at the office of the Unemployment Compensation Commission of Montana at Helena, Montana. Such decisions shall be open for inspection, but without, in any manner, revealing the names of any of the parties or witnesses involved.

REGULATION NO. 15
Mass Separations

The Unemployment Compensation Law of Montana provides in part:

"Section 6 (a). Claims for benefits shall be made in accordance with such regulations as the Commission may prescribe."

The Unemployment Compensation Commission of Montana accordingly prescribes:

1. The term "Mass Separation" means a separation (permanently or for an indefinite period of time, or for an expected

duration of seven or more days) at or about the same time and for the same reason, of twenty-five or more workers employed in a single establishment.

2. In lieu of furnishing workers, separated from his employment in a mass separation, with separation notices as provided for in Regulation No. 9 (Form 200) an employer may file with the Montana State Employment Service office nearest such employer's place of business a mass separation report in the form of a letter over the signature of employer setting forth substantially such information as is required thereby. Such mass separation report should be filed as soon as the employer has reason to believe a mass separation will take place, but shall be filed not later than twenty-four hours after such separation.

3. In cases of total unemployment due to a strike, lockout, or other labor dispute, the employer shall file with the Montana State Employment Service office nearest his place of business, a mass separation notice, in the form of a letter over the signature of the employer setting forth the existence of such dispute and the approximate number of workers affected and such other information as is required to give the Commission notice of such labor dispute and nature thereof.

4. Upon request by the Unemployment Compensation Commission of Montana such employer shall furnish to the Commission the names of the workers ordinarily attached to the department or establishment where unemployment is caused by a strike, lockout, or other labor dispute.

REGULATION NO. 16

Regulation for the Payment of Benefits to Multi-State Workers

Section 11 (j) of the Montana Unemployment Compensation Law provides:

"(j) **Reciprocal Benefit Arrangements.**

The Commission is hereby authorized to enter into arrangements with the appropriate agencies of other states or the Federal Government, whereby individuals performing services in this and other states for a single employing unit under circumstances not specifically provided for in this act, or under similar provisions of the Unemployment Compensation laws of such other states, shall be deemed to be engaged in employment performed entirely within this State or within one of such other states and whereby potential rights to benefits accumulated under the Unemployment Compensation laws of several states or under such a law of the Federal Government, or both, may constitute the basis for the payment of the benefits through a single appropriate agency under terms which the Commission finds will be fair and reasonable as to all affected interests, and will not result in any substantial loss to the fund."

Therefore, the Unemployment Compensation Commission of Montana accordingly prescribes:

1. The following regulation shall govern the Montana Unemployment Compensation Commission in its administrative co-operation with other states adopting similar regulations for the payment of benefits to multi-state workers:

2. **DEFINITIONS.**

As used in these regulations, unless the context clearly requires otherwise:

(a) "Interstate Benefit Payment Plan" means the plan approved by the Interstate Conference of Unemployment Compensation Agencies under which benefits shall be payable to unemployed individuals absent from a state (or states) in which benefit credits have been accumulated.

(b) "Multi-State Worker" means an individual who has benefit credits under the Unemployment Compensation Law of one or more liable states. The term "Multi-State Worker" shall not include any individual who, immediately prior to the commencement of his unemployment, habitually commuted from his residence to his work in another state.

(c) "State" includes the District of Columbia and any territory of the United States enumerated under Section 1101 (a) of Title IX of the Social Security Act.

(d) "Subscribing State" means a State Unemployment Compensation Agency which has filed a "Notice of Acceptance" of the Interstate Benefit Payment Plan with the President of the Interstate Conference of Unemployment Compensation Agencies and has not terminated adherence thereto in accordance with the provisions of such plan.

(e) "Agent State" means any subscribing state in which a multi-state worker is unemployed and files an application for work and claim for benefits on the basis of benefit credits earned under the Unemployment Compensation Laws of a liable state or states.

(f) "Liable State" means any subscribing state from which an unemployed multi-state worker is entitled to unemployment compensation for which claim is filed in an agent state.

(g) "Benefits" means the compensation payable to an individual under the Unemployment Compensation Law of any subscribing state with respect to his total unemployment.

(h) "Week of Total Unemployment" includes:

(1) Any week of total unemployment as defined in the law of the liable state from which benefits with respect to such week are claimed; and

(2) Any week, during, or at the end of a period of compensable total unemployment, in which the claimant performs such services or earns such remuneration that his benefits for a week of total unemployment are reduced.

(i) "State Agency" means the agency charged with the administration of the Unemployment Compensation Law of a subscribing state.

3. **REGISTRATIONS FOR WORK.**

(a) Any unemployed multi-state worker claiming benefits shall be registered as unemployed and for work, through any public employment office in the state in which such worker is unemployed.

(b) Registrations for work by any unemployed multi-state worker with any employment office of an agent state shall be made in accordance with the law, regulations and requirements of the agent state, on the forms and in accordance with the procedures prescribed by such state, except as the law, rules and regulations of a liable state may otherwise prescribe.

(c) Each agent state shall duly report each registration to the liable state in question.

4. **Exhaustion of Credits in Agent State and Order of Succession for Liable States.**

(a) No benefits shall be payable to any unemployed multi-state worker by any liable state until such worker shall have exhausted, or otherwise terminated, his benefit rights in the agent state.

(b) In case a multi-state worker is unemployed and qualified for benefits under the Unemployment Compensation Laws of two or more liable states, such worker shall claim his benefits, and his benefits shall be paid by the several liable states, in the same chronological order as the earliest dates on which the worker earned available benefit credits under the respective laws of such liable states. No benefits shall be payable by any one of several liable states until claimant's total benefit rights under the law of the preceding liable state have been exhausted, or otherwise terminated.

(c) The payment of benefits to a multi-state worker from a given state under paragraph (a) or (b) above, shall not be interrupted solely because benefits become newly payable to such worker from another state, whether or not such other state has priority in the standard order of succession herein established; but if the payment of such benefits is interrupted for one or more weeks for any other reason, then the standard order of succession shall apply.

5. **Claims for Benefits.**

(a) Initial claims for benefits filed by unemployed multi-state workers at the commencement of any period of unemployment with respect to which benefits are claimed from any liable state shall be made on Form IB-1, "Multi-State Worker's Initial Claim for Benefits."

(b) Continued claims for benefits by unemployed multi-state workers for weeks of total unemployment during any continuous period of total unemployment shall be made on Form IB-2, "Multi-State Worker's Continued Claim for Benefits and Notice of Unemployment."

6. **Determination of Claims.**

(a) Upon the filing of any initial claim for benefits and notice of unemployment by any unemployed multi-state worker, the agent state in which such claim was filed shall ascertain the facts with respect to the worker's unemployment, his availability for work, and such other conditions affecting his eligibility as are readily determinable in and by the agent state.

7. **Appellate Procedure.**

Appeals from determination by a liable state with respect to claims for benefits by a multi-state worker shall be heard and determined in the same manner as such liable state hears and determines appeals from determination with respect to claims filed within such liable state. A multi-state worker shall be given notice of the time and place of any such hearing and shall have the right to appear in person at any such hearing by returning to such liable state, at his own expense, or may, with the permission of the liable state, have included in the record of such hearing, his statement, made under oath before the appropriate officer in the agent state, concerning the matters involved in the appeal.

REGULATION NO. 17

The Montana Unemployment Compensation Law provides in part that:

"Section 6 (a). Claims for benefits shall be made in accordance with such regulations as the Commission may prescribe."

The Unemployment Compensation Commission of Montana accordingly prescribes:

1. Where wage records for a worker have not been received by the Commission from an employer, and the subjectivity of an employer has not been determined by the Commission, the unemployed worker shall be entitled to support his claim for benefits by affidavits from two disinterested persons acquainted with the facts, in order to establish the subjectivity of the employer under the law and the wage earnings of the claimant in employment for an employer in the base period of such claimant. Such affidavits and other pertinent data may be used by the Commission as a basis for the determination of the benefit rights of such unemployed worker.

Montana State Library
3 0864 1007 0409 0